

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MARK A. DARE,

Plaintiff,

vs.

GE MONEY BANK, *et al.*,

Defendants.

Case No. 1:06-cv-150

Spiegel, J.

Black, M.J.

**REPORT AND RECOMMENDATION¹ THAT THIS MATTER BE STAYED; AND ALL
PENDING MOTIONS BE TERMINATED WITHOUT PREJUDICE**

On January 9, 2007, defendants filed a notice of plaintiff's bankruptcy court filing in the United States Bankruptcy Court for the Southern District of Ohio, said petition having been filed on January 5, 2007. (*See* Doc. 26). Thereafter, on January 17, 2007, the parties were ordered to show cause in writing why the action should not be stayed pursuant to 11 U.S.C. § 362. The parties have not responded to the pending show cause order although the time deadline has passed.

Accordingly, it is hereby **RECOMMENDED** that this matter be **STAYED** pursuant to 11 U.S.C. § 362, and all pending motions (docs. 3, 6, 7, 8, 9, 13) be **TERMINATED without prejudice.**²

DATE: February 5, 2007

s/Timothy S. Black
Timothy S. Black
United States Magistrate Judge

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

² Pursuant to 11 U.S.C. § 362(a)(1), an application for bankruptcy operates to stay all actions or proceedings against the debtor. *Id.* Although this civil action is brought by plaintiff against defendants, the undersigned finds that the automatic stay provision nevertheless applies because there are motions for sanctions (*see* docs. 7, 9) against plaintiff currently pending. *See Koolik v. Markowitz* 40 F.3d 567, 568 (2d Cir. 1994) (we construe the term "action or proceeding," for purposes of § 362(a)(1), to include any pleading that asserts a claim on which relief is sought).

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation (“R&R”) within **TEN (10) DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **TEN (10) DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).